

REMARKS

Applicant thanks the Examiner for the thorough examination given the present application. Claims 1-10 are now present in the application.

The Office Action dated February 14, 2008 has been received and carefully reviewed. Each issue raised in the Office Action is addressed below. Reconsideration and allowance of the pending claims are respectfully requested in view of the following remarks.

Priority Under 35 U.S.C. § 119

The Examiner has not acknowledged Applicant's claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document. Acknowledgment thereof by the Examiner in the next Office Action is respectfully requested.

Claim Rejections – 35 U.S.C. § 112, 2nd paragraph

Claims 1-7 stand rejected under 35 U.S.C. § 112, 2nd paragraph, as being indefinite. The Office Action indicates that the claim term “particle-shaped material” is indefinite in claim 1 and that the term “preferably” in claims 3-5 renders those claims indefinite.

Responsive thereto, claim 1 has been amended to clarify what the phrase “particle-shaped material” means. More specifically, claim 1 has now been amended to state what the specification already states about the material of the invention, which is that particle-shaped material means ceramic material comprising individual ceramic particles, the ceramic material presenting a density in the range of approximately 0.3 to 1.5 g/cm³, a pore diameter in the range of approximately 20 to 120 μ and a physical size in the range of approximately 0.5 to 10 mm. This is exactly the same language used in the original claims and the specification as filed on page 2, lines 3-6, lines 13-16 and lines 25-26, and on page 3, lines 1-3 and 19-28. The Examiner is respectfully reminded that applicant is entitled to claim the invention “in whatever terms they choose” as specified in *MPEP* § 2173.01, as long as they are clear. By the above amendment, it is submitted that if there was any uncertainty as to the meaning of particle-shaped material, the term has now been clearly defined in the claim to mean ceramic material comprising individual

ceramic particles, the ceramic material presenting a density in the range of approximately 0.3 to 1.5 g/cm³, a pore diameter in the range of approximately 20 to 120 μ and a physical size in the range of approximately 0.5 to 10 mm, and therefore now particularly points out and distinctly claims the invention as required by the statute. In addition, the “preferably” phrases in claims 3-5 have been cancelled, and those claims should now be clear as well. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Claim Rejections – 35 U.S.C. § 112, 1st paragraph

Claims 1-7 stand rejected under 35 U.S.C. § 112, 1st paragraph, as failing to be enabling for the concept of pores within individual particles. Responsive thereto, the language in the claim has been corrected to more properly reflect the pores in the particle shaped ceramic material and for which there is ample support in the specification as filed, rather than the pores in the particles. It is noted that the rejection may have inadvertently used the term “enablement” instead of the term indefinite, since the issue appears to more properly have been the latter, and inasmuch as the rejection failed to provide any of the analysis of the *In re Wands* factors required for any enablement rejection by *MPEP* § 2164.01(a). Inasmuch as the issue has been resolved, reconsideration and withdrawal of the rejection are respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 1-6 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 6,792,843 to Mohr et al. (“Mohr”) in view of “admitted prior art” on page 4 of the specification. Applicants submit the Examiner has failed to establish *prima facie* obviousness and respectfully traverse the rejection. A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the cited references must teach or suggest each and every element in the claims. *See M.P.E.P.* § 706.02(j); *M.P.E.P.* 2141-2144.

Claim 1 requires, *inter alia*, an assembly for protection against an explosion, the assembly including a substantially plate-shaped multi-ply element formed by two outer walls and

at least one intermediate layer of a particle-shaped material, the at least one layer of a particle-shaped material is a ceramic material comprising individual ceramic particles, the ceramic material presenting a density in the range of approximately 0.3 to 1.5 g/cm³, a pore diameter in the range of approximately 20 to 120 μ and a physical size in the range of approximately 0.5 to 10 mm.

To the contrary, Mohr only discloses solid 8.5 mm thick ceramic tiles of dimensions 30 mm x 30 mm. There is no disclosure of a ceramic material comprising individual ceramic particles, the ceramic material presenting a density in the range of approximately 0.3 to 1.5 g/cm³, a pore diameter in the range of approximately 20 to 120 μ and a physical size in the range of approximately 0.5 to 10 mm. In search of a material to meet these limitations, the rejection turns to applicant's disclosure, which is of a particulate material only available from a Danish company for use as catalytic material for the oil industry. Such a substitution for the solid ceramic plates in Mohr would destroy the armour plating of Mohr for its intended function. Moreover, the rejection fails to offer any reason or motivation that would cause one working on the art of armour plating to turn to the art of oil catalysts for a solution to some unstated problem. Only applicant has combined features from two totally disparate arts and resulted in a lightweight and explosion proof protection system as presented in the claimed invention. Therefore, neither the primary reference nor the secondary reference discloses nor suggests at least one layer of a particle-shaped material that is a ceramic material comprising individual ceramic particles, the ceramic material presenting a density in the range of approximately 0.3 to 1.5 g/cm³, a pore diameter in the range of approximately 20 to 120 μ and a physical size in the range of approximately 0.5 to 10 mm in an assembly for protection from an explosion, as recited in amended claim 1, from which claims 2-10 depend. Accordingly, the Office Action fails to make out a *prima facie* case of obviousness of the subject matter recited in currently pending claims 1-10.

Claim 7 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the prior art as applied to claim 1, and further in view of U.S. Pub. No. 2002/0152881 to Stevens et al. ("Stevens"). This rejection is respectfully traversed.

Stevens is cited for a showing of rubber coated fibers. However, to the contrary, Stevens

fails to show or suggest the use of one intermediate layer of a particle-shaped material, and that the at least one layer of a particle-shaped material is a ceramic material comprising individual ceramic particles, the ceramic material presenting a density in the range of approximately 0.3 to 1.5 g/cm³, a pore diameter in the range of approximately 20 to 120 μ and a physical size in the range of approximately 0.5 to 10 mm in the art of explosion resistant material so as to remedy the defects discussed above in the combination applied to claim 1. Reconsideration and withdrawal of this rejection are respectfully requested.

Conclusion

All objections and rejections raised in the Office Action having been properly traversed and addressed, it is respectfully submitted that the present application is in condition for allowance. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Notice of same is earnestly solicited.

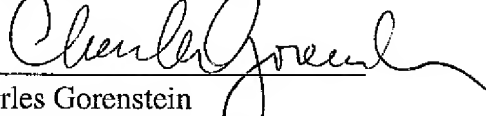
Prompt and favorable consideration of this Amendment is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Paul T. Sewell, Registration No. 61,784, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

Dated: June 12, 2008

Respectfully submitted,

By 

Charles Gorenstein

Registration No.: 29,271

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant